United Nations CRC/C/OPAC/PER/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Peru under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

1. The Committee considered the initial report of Peru (CRC/C/OPAC/PER/1) at its 2071st meeting (see CRC/C/SR.2071), held on 15 January 2016, and adopted the following concluding observations at its 2104th meeting (see CRC/C/SR.2104), held on 29 January 2016.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report, and its written replies to the list of issues (CRC/C/OPAC/PER/Q/1/Add.1). The Committee expresses its appreciation for the constructive dialogue held with the high-level delegation of the State party, but regrets the considerable delay in the submission of the report.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined fourth and fifth periodic reports submitted by the State party under the Convention (CRC/C/PER/CO/4-5) and on the initial report of the State party submitted under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/PER/CO/1), both of which were adopted on 29 January 2016.

II. General observations

Positive aspects

4. The Committee welcomes the accession or ratification by the State party of:

(a) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in January 2016;

* Adopted by the Committee at its seventy-first session (11-29 January 2016).

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(b) The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in September 2003;

(c) The Worst Forms of Child Labour Convention, 1999 (No. 182), in January 2002;

(d) The Rome Statute of the International Criminal Court, in November 2001.

4. The Committee welcomes the various positive measures taken in areas relevant to the implementation of the Optional Protocol, in particular:

(a) The declaration by the State party upon ratification of the Optional Protocol that the minimum age for voluntary recruitment into the armed forces is 18 years;

(b) The Programme for Multisectoral Action in the Apurímac, Ene and Mantaro River Valley Region 2013-2016, which is aimed at combating poverty, inequality, drug trafficking, criminal gangs and terrorism in the region;

(c) The National Plan of Action for Children and Adolescents 2012-2021, which includes among its strategic objectives the elimination of the participation of children and adolescents in internal conflict;

(d) The National Plan of Action to Combat Trafficking in Persons 2011-2016, which categorizes recruitment of children for the purposes of exploitation as a form of trafficking.

III. General measures of implementation

Coordination

5. The Committee notes the information provided by the State party during the dialogue, according to which the Ministry of Defence is responsible for the coordination of activities relating to the areas covered by the Optional Protocol. However, it regrets that the State party denies the need for effective coordination between relevant institutions, such as the Ministry for Women and Vulnerable Groups, the Ministry of Education and the Ministry of Justice and Human Rights.

6. **The Committee draws the attention of the State party to its obligations under the Optional Protocol in relation to dissemination, training, prevention, rehabilitation, and criminalization of the relevant offences, and to establish a coordination mechanism among all relevant entities at all levels. The Committee also recommends that the State party ensure that such mechanism is provided with adequate capacity and authority to coordinate the implementation and evaluation of activities under the Optional Protocol and that the State party provide it with all necessary human, technical and financial resources to carry out its mandate at all levels.**

Allocation of resources

7. The Committee regrets the lack of specific budget allocations for activities to implement the Optional Protocol.

8. **The Committee recommends that the State party ensure that sufficient and targeted resources are allocated for effective implementation of all areas of the Optional Protocol.**

Dissemination, awareness-raising and training

9. The Committee welcomes the information that the State party carries out awareness-raising activities about terrorist violence, and training sessions on human rights and on humanitarian law, including on the Optional Protocol, for members of the armed forces. Nevertheless, the Committee is concerned that other relevant professional categories do not receive adequate training on the Optional Protocol. It also regrets the lack of efforts to educate, and raise the awareness of, children and the public at large on the provisions and principles of the Optional Protocol.

10. **The Committee recommends that the State party widely disseminate the principles and provisions of the Optional Protocol among the general public, targeting children in particular, including through the media. Furthermore, the State party should develop systematic and comprehensive training activities on the provisions of the Optional Protocol for all relevant professional groups, including those responsible for law enforcement, judges, immigration officials, social workers and medical personnel.**

Data

11. The Committee regrets the lack of a systematic mechanism for collecting, analysing and monitoring data on all areas covered by the Optional Protocol.

12. **The Committee recommends that the State party establish a comprehensive data collection system covering all areas relevant for the implementation of the Optional Protocol and that it use the information collected as a basis for designing comprehensive policies and programmes to protect children affected by and involved in armed conflicts.**

IV. Prevention

Age verification procedures

13. The Committee is concerned that age verification procedures for recruitment into the armed forces are not always carried out systematically. It is also concerned that a number of children continue to face difficulties in accessing birth registration and identity documents, which may impact on the effectiveness of age verification procedures.

14. **The Committee urges the State party to ensure consistent and systematic verification of the age of individual recruits in order to prevent, effectively, the recruitment of children into the armed forces. The Committee also reaffirms its concluding observations under the Convention (see CRC/C/PER/CO/4-5, para. 34) and recommends that the State party continue to strengthen its efforts to ensure universal birth registration and access to identity documents for all children in the State party.**

Military schools

15. The Committee is concerned that the Peruvian army operates numerous regular programmes of education for children aged from 3 to 17 and public schools for students aged from 13 to 17. It is also concerned that the number of military schools for children that are operated by the armed forces is high, and that children as young as 15 years of age may

enrol in some of the military schools, are considered military reserves in the event of a troop mobilization or armed conflict, in accordance with Supreme Decree No. 001-2010-DE-SG, adopted on 10 January 2010, and may receive military training.

16. **The Committee recommends that the State party progressively reduce the number of schools operated by its armed forces, in particular its army, and shift the responsibility for all schools from the Ministry of Defence to the Ministry of Education. The State party should also ensure that children who are enrolled in military schools are considered neither members of the armed forces nor part of the military reserve list. Moreover, the State party should ban military-type training, including on the use of firearms, for all children under the age of 18 at military schools.**

V. Prohibition and related matters

Criminal legislation and regulations in force

17. The Committee welcomes the fact that the Military Service Act prohibits forced recruitment and sets the minimum age of military service at 18. Nevertheless, the Committee is concerned that:

(a) The recruitment and use of children in hostilities by the armed forces, non-State armed groups, private security companies and defence contractors has still not been comprehensively and explicitly criminalized;

(b) The recruitment of children below the age of 15 has not been defined as a war crime in the State party's legislation.

18. **The Committee recommends that the State party accelerate the process of revising its Criminal Code with a view to explicitly prohibiting and criminalizing the recruitment and use of children under the age of 18 in hostilities by the armed forces, non-State armed groups, private security companies and defence contractors, without exceptions. The State party should also define and punish the recruitment of children under the age of 15 as a war crime.**

Recruitment and use of children by State armed forces

19. While noting the information provided by the State party during the dialogue, according to which there had been no complaints in 2014 or 2015 of recruitment and use of children by State armed forces, the Committee is deeply concerned at reports that the armed forces of the State party, including the police and self-defence committees, have unlawfully recruited and used children, who have also been sent to serve in areas of high risk of conflict and violence, and that this has disproportionately affected children in marginalized and vulnerable situations.

20. **The Committee urges the State party to take all necessary measures to prevent and combat, effectively, the recruitment or use of children by armed forces, including the police and self-defence committees. In that regard, the State party should ensure the effective implementation of existing laws, including by providing training to relevant professionals and raising awareness of age requirements.**

Recruitment and use of children by non-State armed groups

21. The Committee expresses deep concern about the ongoing recruitment, kidnapping and use of children, including girls, by non-State armed groups, in particular the Shining Path of the Apurímac, Ene and Mantaro river valley region and the Huallaga region. It is also concerned at reports that the children are used for illicit activities, such as drug trafficking, and are subjected to sexual abuse and exploitation by these non-State armed groups. The Committee is further concerned that measures taken to identify children at risk of being recruited, particularly on account of their socioeconomic status or the remoteness of where they live, are insufficient.

22. **The Committee reminds the State party of its obligations under the Optional Protocol to take all necessary measures to prevent and combat, effectively, the recruitment or the use of children by non-State armed groups. In that regard, the Committee urges the State party to:**

(a) **Strengthen its legal, administrative and institutional measures necessary to protect children from violence, including sexual violence, and economic exploitation by non-State armed groups, taking into account the particular needs of girl victims when designing these measures;**

(b) **Establish appropriate mechanisms to identify children at risk of being recruited or used by non-State armed groups;**

(c) **Continue and further strengthen its programmes aimed at preventing and eliminating the root causes of recruitment, such as the Programme for Multisectoral Action in the Apurímac, Ene and Mantaro River Valley Region 2013-2016;**

(d) **Expand awareness-raising and educational programmes on the negative consequences of participating in armed conflicts, targeted at children, parents, teachers and any other relevant stakeholder.**

Impunity

23. The Committee regrets the lack of information on the number and the outcomes of investigations, prosecutions and convictions in cases relating to the use and recruitment of children by the armed forces and non-State armed groups.

24. **The Committee recommends that the State party ensure prompt and impartial investigations into reports of recruitment and use of children by armed forces and groups, as well as the prosecution of alleged perpetrators and adequate punishments for those convicted. The State party should also intensify its efforts to investigate, prosecute and bring to justice the perpetrators of offences covered under the Optional Protocol that were committed during its past internal armed conflict.**

Extraterritorial jurisdiction and extradition

25. The Committee notes the information provided by the State party during the dialogue regarding the possibilities of exercising extraterritorial jurisdiction and the inclusion of the offences covered by the Optional Protocol in the majority of extradition treaties. Nevertheless, the Committee is concerned that extraterritorial jurisdiction over, and extradition for, offences prohibited under the Protocol are subject to the criterion of double criminality.

26. **The Committee recommends that the State party ensure that domestic legislation regarding extraterritorial jurisdiction over, and extradition for, all offences covered by the Optional Protocol is exercised without the criterion of double criminality.**

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

27. The Committee welcomes the measures taken by the State party under the Comprehensive Reparations Plan with regard to redress for children affected by the armed conflict between 1980 and 2000. However, the Committee is concerned at delays in the implementation of the plan.

28. **The Committee recommends that the State party continue its efforts to ensure that child victims of the armed conflict between 1980 and 2000 receive redress.**

Assistance for physical and psychological recovery and social reintegration

29. The Committee notes the information provided by the State party on recent efforts, such as the establishment of a multisectoral committee, to ensure the rehabilitation and social reintegration of children recruited by the Shining Path. It is, however, concerned at the limited availability of assistance for the physical and psychological recovery and reintegration of children recruited into the armed forces or armed groups or used in hostilities. The Committee also regrets the lack of information on services provided for girl recruits who were victims of sexual abuse.

30. **The Committee recommends that the State party take all necessary measures to ensure that children recruited into armed forces or groups or used in hostilities are provided with physical and psychological recovery and have access to rehabilitation and reintegration programmes. Such measures should include careful assessment of the situation of those children, reinforcement of the legal advisory services available for them, and the provision of immediate, culturally responsive, child- and gender-sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration. The State party should provide further information on measures adopted in that regard and on the number of children benefitting from such measures in its next report under the Convention on the Rights of the Child.**

VII. International assistance and cooperation

International cooperation

31. **The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with the United Nations Children's Fund (UNICEF) and other United Nations entities in the implementation of the Optional Protocol.**

VIII. Follow-up and dissemination

32. **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Parliament, relevant ministries, including the Ministry of Defence, the Supreme Court and local authorities, for appropriate consideration and further action.**

33. **The Committee recommends that the initial report and written replies submitted by the State party and the present concluding observations adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

IX. Next report

34. **In accordance with article 8 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report under the Convention on the Rights of the Child, to be submitted in accordance with article 44 of the Convention.**